



Town of Arlington
Department of Health and Human Services
Office of the Board of Health
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**Board of Health Meeting Minutes
Wednesday, June 21, 2017
BOH Conference Room
Arlington Senior Center
5:30pm**

Board Members in Attendance: Dr. Marie Walsh Condon, Dr. Kevin Fallon, Mr. Kenneth Kohlberg

Staff in Attendance: Christine Bongiorno, Director; Natasha Waden, Health Compliance Officer; Kylee Sullivan, Health Compliance Officer; Jessica Kerr, Public Health Nurse, Ivy Schmalzried AYHSC.

Others in Attendance: Valerio Romano, VGR Law Firm; Tasha Pleasant, Ray Laham, Ken Leitner, Maureen Lee, Danbi Choi, Victoria Hogan, Paumi Joseph, Donald Leone

Recording Secretary: Laura Munsey, Health & Human Services Administrative Assistant

Meeting called to order by Dr. Marie Walsh Condon at 5:32 pm.

A motion was made by Mr. Kenneth Kohlberg, which was seconded by Dr. Kevin Fallon to accept the May 24, 2017 meeting minutes as submitted.

Vote: 3 – 0 (Unanimously) in favor of the motion

Presentation: 2013 Food Code – Maureen Lee

Ms. Waden introduced Ms. Maureen Lee, who is a Consultant working with the Health Department as part of the AFTO Grant regarding implementation of the Voluntary Retail Food Standards.

Ms. Lee informed the Board that the Health Department is currently using the 1999 Food Code which was adopted in 2001. She stated the 1999 Food Code introduced requirements for certification and training of Inspectors. The 2013 code emphasizes executing and applying that knowledge. She reported that the State is currently working towards adopting the 2013 food code as well, and stated there is a large gap between the 1999 food code and the 2013 food code.

Ms. Lee stated that many food establishments have provided feedback that they believe foodborne illness is not from establishments but rather from farms, processing plants, or packaging facilities. However, Ms. Lee stated

that the CDC reported that between 2013 and March of 2015 88% of all documented foodborne illnesses were caused by single food locations.

Ms Lee stated the following reasons to implement the 2013 Food Code:

- Advances in food safety are reflected in the 2013 Food Code which improves controls for reducing foodborne illness
- Enhances communication and eases frustration
 - Consistency between FPM certification and 2013 food code aligns certification training with enforcement expectations
 - Enforcement consistency with surrounding communities

Ms. Lee informed the Board that some of the changes in adopting the 2013 Food Code would include: new inspection forms, signs are required in establishments to notify public that inspection information is available, stronger requirements for cleaning and sanitizing food contact surfaces used for preparation of raw foods, and new requirements for Reduced Oxygen Packaging (ROP) that better address emerging trends. She further stated that critical violations are needed to be corrected prior to the Inspector leaving the establishment.

As part of the process the Health Department would need to identify key stakeholders, develop a training program, conduct key stakeholder training, and create an enforcement strategy.

Ms. Lee stated there will be a progressive approach for training and implementation. Ms. Waden stated it is the hope of the Health Department to adopt the new code by 2018, and that the Department would reach out to stakeholders and the new code would be rolled out over time. Ms. Waden said funding to implement the new standards would be partially funded through the AFTO grant (which would include printing new forms) as well as through Capital Funds (for new inspectional software). She stated the AFTO grant covers Standards 1, 2, and 4.

Hearing: Tobacco/Nicotine Delivery Product Sales Violation – Symmes Mini Mart

Inspector Sullivan informed the Board that on Thursday June 8th, 2017 the Arlington Board of Health, in collaboration with the 5 Community Collaborative, conducted a compliance check of all permitted retail tobacco vendors in town. She stated that at 7:41 pm, a Symmes Mini Mart employee sold a Blu classic e-cigarette to two 17 year old girls. Inspector Sullivan informed the Board that this is the 1st violation for Symmes Mini Mart since the July 1, 2013 regulations were adopted, and recommended a \$100 fine and 7 consecutive day suspension for the sale of tobacco/nicotine delivery products.

Mr. Raymond Laham of Symmes Mini Mart addressed the Board and explained that a gentleman who works for him on nights that the Managers are off sold the product, and was unaware that the e-cigarette contained nicotine. Mr. Laham stated, he will talk with all employee's and will put a sign on the register as a reminder to all employees. He apologized for the error, and stated it was a mistake and a wake-up call for all employees.

Dr. Walsh Condon reported this is the first violation referenced for this establishment, and she hopes they will resume their prior track record regarding violations.

A Motion was made by Mr. Kenneth Kohlberg, which was seconded by Dr. Kevin Fallon, to enforce the Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products resulting in a \$100.00 fine and a 7 consecutive day permit suspension of tobacco and nicotine delivery products issued to Symmes Mini Mart.

Vote: The Board voted unanimously (3 - 0) in support of the motion.

Hearing: Housing Code Violations – 108 Broadway

Inspector Sullivan informed the Board that on April 24, 2017 the Health Department received a call from resident Tasha Pleasant, requesting a comprehensive housing inspection of her dwelling at 108 Broadway, Unit 7 which was owned by Mr. Donald Leone. Ms. Pleasant requested the inspection prior to terminating her lease at the end of June 2017. Inspector Sullivan and Public Health Associate Charlotte Gray conducted an inspection on May 4, 2017. The inspection revealed 5 violations of the State Sanitary Code 105 CMR 410.000 including:

1. no carbon monoxide alarm in the unit,
2. a window lock that was not working,
3. the air conditioning unit did not turn on and thus was not functioning as intended,
4. the thermostat was in disrepair as the cover was detached from the body of the unit, and
5. the kitchen ceiling light fixture did not turn on and thus was not functioning as intended.

Inspector Sullivan received a letter from Attorney Kenneth Leitner, on behalf of Mr. Donald Leone, dated May 23, 2017 requesting a hearing. Inspector Sullivan conducted a re-inspection on June 15th and found the window lock was working, and verified that there were no combustion equipment present in the dwelling and all equipment was electrical, therefore would like to modify the order letter to strike violations 1 and 2, and move forward with violations 3 through 5.

Attorney Ken Leitner, Representative for Mr. Donald Leone, addressed the Board and stated a letter was sent by a Constable to Ms. Pleasant to request access to make repairs and there was no response. He stated that without the Tenants permission they would be forced to have the Arlington Police Department accompany them to the unit. He further stated that regarding the air conditioning unit (violation 3), he was not provided pictures and does not know why it is not working, and is not sure if there is a broken or missing switch. He further stated air conditioning is not part of the lease or a requirement of the State Sanitary Code, and stated on the day of inspection it was only 63 degrees. Regarding the thermostat cover (violation 4) he stated that the heat does work, and perhaps the cover just needs to be snapped back on, and regarding the light fixture in the kitchen (violation 5) he stated it may be a fuse or even just a broken bulb. Attorney Leitner stated that in the lease it is the Tenants responsibility to inform the Landlord of maintenance or repair matters, and reported Ms. Pleasant did not report these problems to the Landlord. Attorney Leitner stated that he believes this is a serious matter, and the Landlord, Mr. Leone, has never received a complaint in the past, has never been before the Board of Health, owns several properties, and requested the matter be dropped.

Inspector Sullivan stated that although air conditioning is not required by the code, when it is provided at the time of rental, it does need to be maintained in working order. She further stated that based on the Code the remaining 3 violations would need to be corrected.

The Board inquired if the tenant were to give permission to gain access to the unit to correct the violations, would the matter be resolved? Mr. Leone stated repairs could be made at 10:00 am on Thursday morning of this week, (or the following Tuesday, Wednesday, or Thursday). Mr. Leone further stated, he would require that the tenant or her representative be present, because his workers are afraid to go into the unit because they were previously accused of moving Ms. Pleasant's personal items.

Ms. Tasha Pleasant addressed the Board. She stated she has not received any calls or emails from Mr. Leone to gain access to the unit for repairs. She stated early on in her occupancy, there were issues where the garbage disposal, and dishwasher were not working properly. She also referenced that the sink and tub kept backing up. She stated that when she reported the problem, she was accused of breaking the equipment. She confirmed that she would absolutely allow access to the apartment for repairs, but she works full time, and would need time to find a representative to be present during that time. Ms. Pleasant stated, that because of her past experience with the Landlord she was fearful of retaliation, and therefore contacted the Board of Health to document the condition of the unit.

Dr. Marie Walsh-Condon negotiated a resolution, stating that the remaining three violations (3 through 5) do not fall under the category of endangerment, and whereas the Tenant, Ms. Pleasant, will be moving out the end of June, the order letter to correct violations 3-5 will be extended to the 2nd week of July (July 14, 2017). It was further noted that maintenance work will not begin until Ms. Pleasant vacates the property at the end of June. Both parties agreed to this compromise.

A Motion was made by Mr. Kenneth Kohlberg, which was seconded by Dr. Kevin Fallon, to hold this matter over until July 14, 2017 at which time a reinspection of the unit will be conducted by the Health Department.

Vote: Unanimous (3-0) in support of the motion.

Hearing Continued: Permit to Operate a Registered Marijuana Dispensary – 11 Water Street

Inspector Waden briefly summarized the discussions of the previous meeting, including concerns raised, and confirmed that each of the Board Members received the supplemental informational packet provided by Attorney David Ullian of Vicente Sederberg LLC regarding the Massachusetts Patient Foundations Application to operate a medical marijuana dispensary at 11 Water Street, Unit 3B. Provided to the Board were draft copies of the patient handbook, dispensary agent training procedures, information regarding product labels, handling potential capacity issues, policy regarding providing medical advice to patients, prohibition on sale of seeds for hardship cultivation, and prohibition of on-site consumption.

Through discussions it was determined that all of the previous concerns raised by the Board have been satisfactorily addressed. Further discussions took place regarding conditional approval, taking into consideration, but not limited to:

- Permitting Fee
- Dispensary Agent Permits and Fees

- Proof of Final Certificate from State Department of Public Health
- Surety Bond
- Finalized Handbook Approval
- Annual Community Meeting
- Confirmation that no lottery, tobacco or nicotine delivery products will be sold on site
- Pre-Operational Inspection

Attorney Valerio Romano stated that the target date to open would be the 1st or 2nd quarter of next year.

A Motion was made by Dr. Kevin Fallon, which was seconded by Dr. Marie Walsh Condon to conditionally approve the permit for Massachusetts Patient Foundation to Operate a retail registered marijuana dispensary located at 11 Water Street, Unit 3B, Arlington, Massachusetts.

Vote: Unanimously (3-0) in support of the motion.

Hearing: Amendments to Regulations Restricting the Sale of Tobacco and Nicotine Delivery Products

The Board held discussions regarding amendments to the Regulations Restricting the Sale of Tobacco and Nicotine Delivery Products. The Board discussed the total number of permits that would be allowed in town, and recommendations related to capping the total number of permits allowed.

Inspector Waden and Director Bongiorno will work with DJ Wilson, and Town Counsel to review the existing regulations and make final recommendations regarding the proposed amendments at the September meeting.

Coalition Updates

Ms. Ivy Laplante Schmalzried updated the Board on the Massachusetts House and Senate legislative amendments regarding the sale of recreational marijuana. She reported that both the House and the Senate have proposed different changes to the law and at this time, no consensus has been made.

Director Bongiorno stated that Arlington Town Meeting voted a moratorium on allowing any recreational marijuana dispensaries in town until June of 2018, which would allow the State the opportunity to amend the legislation. Director Bongiorno stated she would provide any important updates regarding this matter to the Board Members over the summer season.

Ms. Schmalzried informed the Board that the Coalition would like to host a Youth Marijuana Use Prevention Forum this fall, and recent student suspensions regarding marijuana use at Ottoson Middle School, and Arlington High School were discussed.

Environmental Updates:

- Inspector Waden stated that the collaborative effort to help control the rodent issues in Arlington Center is making progress, and stated that DPW has removed the soil in planters in Broadway plaza, and Environmental Health Services has installed mesh borders around the Uncle Sam Visitor Center.
- Pools and Bathing Beaches have been inspected and permitted.

Restaurant Updates

- LaFamilia is closed (no additional information is available at this time)
- Twyrl will be opening soon, and has a pre-operation inspection scheduled for Friday June 23, 2017.

Public Health Nurse Updates

Inspector Waden introduced Ms. Jessica Kerr, Public Health Nurse, to the Board. Ms. Kerr expressed her excitement for the opportunity to work with the Board of Health. She stated she has taken the 1st Month to familiarize herself to the Department, has been trained in MAVEN, has attended an Emergency Preparedness Meeting. She also reported she has met with Sue Franchi, School Nurse Leader, and has visited each school taking the opportunity to meet with and collaborate with all the school nurses and discuss future flu clinics at all the schools.

Other

- Director Bongiorno informed the Board that interviews for the Director of Public Health will begin on Friday June 23rd, and Dr. Marie Walsh Condon will sit in on the first round.
- A request was made by Mr. Kenneth Kohlberg to reschedule the September 6, 2017 Board of Health Meeting.

A Motion was made by Dr. Kevin Fallon, which was seconded by Dr. Walsh-Condon to reschedule the September 6, 2017 Board of Health Meeting to Wednesday, September 13, 2017.

Vote: Unanimous (3-0) in favor of the motion.

Public Comment

None

Meeting was adjourned at 6:58 pm.